

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

PALTALK HOLDINGS, INC.,

Plaintiff,

v.

VALVE CORPORATION,

Defendant.

1:16CV1239

MEMORANDUM AND ORDER

This matter is before the court on defendant's motion to transfer, Filing No. 19, and the report and recommendation of the magistrate judge, Filing No. 47. Defendant filed a motion to transfer pursuant to [Fed. R. Civ. P. 12\(b\)\(3\)](#) and [28 U.S.C. §§ 1400\(b\)](#) and 1406. The magistrate judge recommended to this court that the case be transferred to the Western District of Washington. No objections have been filed. This is a patent infringement case. Both parties conceded that Delaware was not the correct venue for this case. The plaintiff asked that the case be transferred to Virginia and the defendant requested a transfer to the Western District of Washington. Valve is a Washington corporation that is headquartered in Bellevue, Washington. PalTalk is headquartered in Jericho, New York.

The Supreme Court has construed the statutory grant of authority conferred on magistrate judges under [28 U.S.C. § 636](#) to mean that nondispositive pretrial matters are governed by § 636(b)(1)(A) and dispositive matters are covered by § 636(b)(1)(B). [*Gomez v. United States*, 490 U.S. 858, 873-74 \(1989\)](#); see also [Fed. R. Civ. P. 72\(a\)](#) and (b)(3).

The magistrate judge determined that the parties agreed that the Western District of Washington was proper, but they initially disagreed whether the Eastern District of Virginia is a regular established location so as to establish venue. The magistrate judge concluded that Valve's connections to Washington were significant and the ties to Virginia were tenuous in comparison. The magistrate judge further found that the events at issue are connected to the Western District of Washington, and DOTA 2 and its source code, at issue in this lawsuit, were created in Washington by Valve employees. Further, all of the developers, employees, officers and directors involved in the creation of DOTA 2 all work in Washington. The defendant has now agreed to the transfer to the Western District of Washington. Filing No. 49.

The court finds the magistrate judge is correct as a matter of law and fact and adopts her findings and recommendation in its entirety.

THEREFORE, IT IS ORDERED THAT:

1. Defendant's motion for a change of venue, Filing No.19, is granted;
2. The report and recommendation, Filing No. 47, is adopted in its entirety; and
3. The Clerk of Court is ordered to transfer this case to the Western District of Washington.

Dated this 1st day of February, 2018.

BY THE COURT:

s/ Joseph F. Bataillon
Senior United States District Judge